


The Policy Making Process in FTA Negotiations: A Case Study of Japanese Bilateral EPAs

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Abstract

This paper analyzes Japanese bilateral EPA negotiations, focusing on the areas that each country decided were most important, as well as which actors played the most important roles in each set of negotiations. The negotiations with Mexico and Thailand, which tried to increase agricultural exports to Japan through FTAs, will be discussed. Japan, one should note, still seeks to protect its agricultural sector in spite of the spread of liberalization. The Philippines, Thailand and Malaysia's efforts to improve and compete in developing their automotive industries, in the face of the completion of AFTA in 2010, are also examined. In addition, this paper discusses whether economic cooperation, the essential Japanese strategy in EPA negotiations, alters the negotiation process in any significant way.

Keywords: FTA, EPA, policy making, Japan, ASEAN

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1. Introduction

In the 1990s regional integration accelerated across the globe. Since signing its first Economic Partnership Agreement (EPA) with Singapore, Japan has rapidly accumulated bilateral FTAs.¹ EPAs with Mexico, Malaysia, Chile, and Thailand have taken effect and EPAs with the Philippines, Brunei and Indonesia have been signed. FTAs are a necessary step toward if economic cooperation within Asia is to increase and an Asian Community is to be realized.

While the country is in the process of FTA negotiation, what kind of interactions are seen between actors such as politicians, technocrats, legislative bodies, business organization and the civil groups? How does each actor respond to the pressure of liberalization and structural reforms? What kind of process is being followed so as to form the policies?

This paper analyzes Japanese bilateral EPA negotiations, focusing on the areas that each country decided were most important, as well as which actors played the most important roles in each set of negotiations. The negotiations with Mexico and Thailand, which tried to increase agricultural exports to Japan through FTAs, will be discussed. Japan, one should note, still seeks to protect its agricultural sector in spite of the spread

¹ FTA, which Japan promotes is called EPA since it includes not only tariff cut on products, but also includes service trade, investment and economic cooperation.

of liberalization. The Philippines, Thailand and Malaysia's efforts to improve and compete in developing their automotive industries, in the face of the completion of AFTA in 2010, are also examined.

In addition, this paper discusses whether economic cooperation, the essential Japanese strategy in EPA negotiations, alters the negotiation process in any significant way. The background of how the agricultural and industrial sectors reached agreements and how negotiating countries reacted to the economic cooperation proposals Japan offered are also addressed.

Although Japan started to engage in EPA negotiations with ASEAN members in 2004, ASEAN countries have also reached agreements with China and South Korea. In the conclusion, this report compares ASEAN's FTAs with China and Japan in terms of both negotiation process and content, and describes the characteristics and problems of Japanese EPA negotiations.

2. Negotiations on Agriculture

(A) Mexico

The Japan-Mexico EPA took effect in April 2005. While Mexico is the second country with which Japan has signed an EPA (the first being Singapore), the accord is the first EPA in which Japan negotiated on agricultural products. Representatives from both governments started the EPA negotiations in November 2002 and tried to create a basic agreement in October 2003 when President Fox visited Japan. However, negotiations broke down due to a disagreement on a tariff-free quota on pork and orange

juice. It was already March 2004 when both governments agreed to in principle.

Japanese companies had been at a disadvantage relative to companies from the US and the EU in terms of customs and government procurement since Mexico joined NAFTA in 1994 and signed an FTA with the EU in 2000. As a result of this disadvantage, Japanese business groups had lobbied for a Japan-Mexico FTA. In the negotiations, Japan initially called for removing tariffs on some industrial products such as steel and vehicles. On the other hand, Mexico called for removing tariffs on pork and other agricultural products, thinking that exports of these products to Japan could increase in the future. The Mexican government was especially firm on its point, since after NAFTA had taken effect agricultural imports from the US had weakened the competitiveness of Mexican agriculture.²

To protect its own pork industry, Japan had originally set up a differential value tariff system. The differential value tariff system begins by setting a scheduled standard import price and a standard domestic production cost. When import prices are lower than the standard domestic production cost, the difference between them is collected as a tariff.³ Though Mexico initially called for removing the differential value tariff on pork, Japan did not concede. Therefore, before President Fox's visit, Mexico called for setting a non-tariff quota for pork and Japan instead agreed to the creation of a lower tariff quota, making the new tariff half of the original. At one point both agreed to the Japanese concession. But negotiations broke down when Mexico requested a non-tariff quota for orange juice. After the breakdown of negotiations, Mexico insisted on

² Mexico is a pork exporter. However, in Mexico, pork imports from the US have increased and small scale pig farmers suffer from this competition. On the other hand, Japan only imports pork from several big-scale pig farm companies in areas in which there has not been an outbreak of foot-mouth disease.

³ When import prices are higher than the standard domestic production cost, a 4.3 % tariff will be collected.

abolishing the differential value system for pork and Japan conceded to Mexico by lowering its tariff quota for pork and orange juice. This concession led to the agreement between Mexico and Japan.

One idiosyncrasy of the FTA negotiations with Mexico is that representatives of business organizations accompanied the Mexican government delegation and maintained close contact with them during the negotiation period. In Mexico, sectoral business organizations from the manufacturing, commerce, banking, agricultural sectors make up the Business Coordinating Council of Mexico (CCE). As the umbrella business organization in Mexico, the CCE represents the interest of private business. When negotiations started, CCE established the Mexican Business Coordinating Council for Free Trade; (COECE).⁴ COECE put pressure on the government delegation to pursue its interests in the negotiations. It also made efforts to change the minds of some sectoral business organizations that disapproved of the FTA negotiations. Regarding the FTA with Japan, COECE was of the opinion that Mexico could not benefit unless Japan opened its market for agricultural products up to a certain level. Therefore, when negotiations broke down in October 2003, there was a strong disagreement from the representatives of the business organization (nicknamed the side-room), which considered Japanese concessions insufficient. Representatives of the business organization had a room at the same hotel where the delegation from Mexican government stayed. The delegation from the Mexican government made progress on negotiations with Japan by utilizing information from the business organization

⁴ When President Salinas began negotiations on NAFTA in 1990, he asked the CCE to establish an organization to conduct research on the influence of NAFTA. This organization was COECE. Since then, COECE is invited whenever FTA negotiations start. It has a committee for each negotiation sector and coordinators for each committee keep close contact with a government negotiation coordinator.

representative. It could not make progress in negotiations without the cooperation of the business organization.

(B) Thailand

Having made concessions on agriculture in its negotiations with Mexico, the Japanese Ministry of Agriculture, Forestry and Fisheries proclaimed a new strategy called the “Green Asia: EPA Promotion Strategy” to achieve better results regarding agriculture.⁵

The Green Asia - EPA Promotion Strategy focused on six points. These are: 1) the stabilization / multipolarization of food imports 2) ensuring the importation of safe / secure food 3) the export promotion of Japanese brands of agricultural, forestry, and marine products and food 4) the development of the national food industry’s business environment 5) the resolution, through EPAs, of problems like poverty in rural areas 6) conservation, through EPAs, of the global environment and sustainable use of resources. In addition, considering the existence of exchanges with agricultural cooperatives in other Asian countries, Japanese agricultural cooperatives aim to not only ensure a bright future for Japanese agriculture but for the agriculture of other Asian countries through international cooperation in the agricultural sector.⁶ In fact, what Japan and other Asian countries have in common is that their agriculture is based on small scale paddy fields, which is different from most developed countries’ agricultural sectors. As to its strategy for EPA negotiations with other Asian countries, the Japanese Ministry of Agriculture

⁵ Ministry of Agriculture, Forestry and Fisheries “Basic Strategy for Agricultural and Fisheries Products in Negotiations for EPAs and FTAs,” June 2004. “Promoting EPAs in Agriculture, Forestry and Fishery Sector with Asian Countries - Green Asia EPA Promotion Strategy,” November 2004.

⁶ Central Union of Agricultural Cooperative “Basic idea of JA group on FTA with South Korea, Thailand, Philippines, Malaysia and Indonesia,” February 2004.

confirmed that it seeks to balance cooperation and liberalization in order to improve the life quality and income of farmers.

In the FTA negotiations that took place between Japan and Thailand starting in February 2004, tariff reduction and tariff cuts on Japan's sensitive sector—agriculture—were considered the main obstacles. In fact, negotiations reached a deadlock when discussing whether rice, sugar, starch and chicken, which Thailand wants to export, would be subject to tariff cuts or not. However, Thailand came to the realization that there existed a low demand for Thai rice in Japan because it is perceived to be very different from Japanese rice. Thailand was also afraid that an agreement would not be reached if it remained so immovable in its demands for rice liberalization that the FTA negotiation would become a political problem in Japan. Therefore, following the suggestion of Prime Minister Thaksin in October 2004, Thailand agreed that rice would not be subject to tariff cuts. In addition, at the seventh meeting in March 2005, both countries agreed that tariffs on refined sugar, starch and canned pineapple from Thailand would remain intact and would be discussed again in five years' time, based on the thinking that liberalization could severely damage Japanese local economies, including those of Hokkaido, Okinawa, and Kagoshima. As to tariffs on other agricultural products, Japan promised to immediately abolish tariffs on frozen shrimp, shrimp products, mangoes, mangosteens and durians.⁷

The strategy of Japanese Ministry of Agriculture, whereby Japan would suggest a full package of market access and economic cooperation with Thailand, was the main factor the agreement on agriculture was concluded quickly. At the time of the negotiations, bird flu was a serious problem in Thailand. Therefore, the improvement of

⁷ Tariff on boneless chicken were cut from 11.9 % to 8.5 %. Tariffs on prepared preserved meat were cut from 6.0% to 3.0 % in five years.

sanitation standards and the revivification of villages through agricultural cooperatives emerged as problems. Thailand asked Japan to provide personnel training and promote a “one village, one product” projects through these agricultural cooperatives in order to revive villages. By agreeing with these requests, the Ministry of Agriculture could exclude Japanese sensitive products from negotiations and could renegotiate later.

However, negotiations with Thailand did not bring satisfactory outcomes on the whole since Thailand took a tough position after negotiations relating to the agricultural sector had been concluded. Japan asked Thailand to cut tariffs on industrial products such as steel and automobiles although it had not made concessions of its own. Instead of agreeing with the Japanese request, Thailand asked Japan to liberalize agricultural products more. As a result, the agreement on the industrial sector resulted in a very different outcome from that which Japan had requested at the very beginning.

3. Negotiations on the Automotive Sector

(A) The Philippines

Japan and the Philippines agreed to EPA in principle in November 2004. In this basic accord, the Philippines promised to immediately abolish tariffs on passenger cars with engines exceeding 3,000cc. It also agreed to gradually reduce tariffs on passenger cars with engines not exceeding 3000cc and abolish them by 2010. However, the fact that the Ford Company lobbied the Filipino government and Thailand negotiated a better deal with Japan led to a renegotiation of the EPA. This renegotiation was highly unusual as it occurred after the basic accord had been reached. It was already September

2006 by the time the final EPA had been agreed upon.

The Filipino government created the Motor Vehicle Development Program designed to transform the Philippines into a regional hub for automotive production.⁸ One of the important pillars of the program includes the export promotion of vehicles from the Philippines. To achieve this goal, the Philippines set a policy through which automobile manufacturers receive benefits equal to \$ 400 per vehicle exported. This is provided in the form of reduced tariff rates on finished vehicle manufacture imports into the Philippines.⁹ Ford Philippines utilized the regulation by producing MPV in the Philippines and exporting them to Thailand. As a result, it received a reduced tariff rate of 10 % when it imported large vehicle from the US. Ford would be at a disadvantage compared to Japanese automobile manufacturers in the Filipino market in terms of price if an EPA cut tariffs on large vehicles and Japanese large vehicle were imported without tariffs. For this reason Ford pressured the Filipino government to maintain the current import tariff system. In addition, since the Japan-Thailand EPA allows Thailand to protect its own automobile industry the Filipino government strongly called for revising its basic accord with Japan. In the final agreement, for passenger cars with engines exceeding 3,000cc, the tariff would be maintained at 30 % until 2009 and would be removed in 2010 if there would be no investment. For cars under 3000cc, the tariff would be gradually cut to 20 % by 2009 and would then be subject to negotiation before any further reduction.

As for auto parts, tariffs would be immediately removed on parts not produced in the Philippines. To support local auto-component makers, the Filipino government changed the original plan, in which tariffs would be cut to 5-10% in 2003, by raising

⁸ This program was created by Executive Order 156 on December 12, 2002.

⁹ This regulation was enforced by Executive Order 244 on October 3, 2003.

tariffs on designated auto components.¹⁰ The Japan-Philippines EPA also promises to maintain tariffs on designated auto components until 2010 to promote the use of locally produced auto parts.

In the Philippines, it has been said that businessmen and Congress try to protect their own interests and influence the policy of the Filipino government. In other words, bureaucrats are thought not to have the ability to decide policy. In negotiations with Japan, businessmen in the auto industry put political pressure on the government and the government became conservative. However, unlike most cases, this set of negotiations did not end up protecting the auto industry. Bureaucrats, mindful of the comprehensive industry development policy, altered the course of negotiations. Bureaucrats pursued an automobile export program, one of the automobile industry development plans of the Philippines Board of Investment, and made adjustments as necessary. These negotiations were unique in the sense that the role of bureaucrats in industrial development policy was significant.

(B) Thailand

As previously mentioned, Japan and Thailand reached a basic EPA agreement on agricultural and fishery products in their seventh conference in March 2005. However, their positions on tariff cuts for industrial products were far apart. They could not reach an agreement on tariff cuts on automobile and steel products imported from Japan. Japan requested Thailand to remove tariffs on automobiles with engine displacement exceeding 3000 cc (set at 80 percent) and to reduce tariffs on cars with an engine displacement below 3000cc. In addition, it called for immediate tariff cuts on

¹⁰ This was enforced by Executive Order 262 on December 30, 2003.

auto parts and called for a gradual tariff cut on sensitive auto parts. Thailand responded by proposing to renegotiate its tariff on cars above 3,000cc three years later. It also proposed that a tariff for cars with an engine displacement below 3,000 cc be excluded from the FTA and that its tariff on auto parts be removed in 15 years' time.

In April at a minister level meeting Japan proposed a compromise plan which called for Thailand to remove tariffs on assembled vehicles in 2010 and to establish a non-tariff quota for cars with an engine displacement above 3,000cc. It also promised to provide economic cooperation such as personnel training program in the auto sector to support Thailand's automotive industry plan of becoming the "Detroit of Asia". However, differences between them were not bridged and it became unlikely that an agreement would be reached. Two reasons the Thai side took such a strong line is that Western auto companies lobbied the Thai government to keep the current tariff system in place and that there was a strong reaction to the Japanese negotiation attitude. Thailand did not like that Japan demanded concessions on Thailand's industrial sector without making any concessions itself and that it put pressure on politicians in order to reach an agreement beyond the official level meeting.

Eight western auto companies made a joint request to the Thai government to exclude automobiles from its EPA negotiations with Japan.¹¹ They were afraid that a Japan-Thai EPA would remove tariffs on cars exceeding 3000cc immediately, putting their automobiles at a disadvantage compared to Japanese automobiles and forcing them to cease manufacturing in Thailand. Just as Minister of Economy, Trade and Industry Nakagawa was about to visit Thailand, EU Trade Commissioner Mandelson visited Thailand and asked the Thai government to ensure that a Japan-Thai EPA would not

¹¹ Letter dated March 22, 2005 for Deputy Prime Minister Somkid from eight western auto company.

have deleterious effects on European auto companies operating in Thailand. In addition, the Thai Auto-Parts Manufacturers Association cooperated with the European auto companies and told the Thai government that tariff reductions on a large scale car would bring about a reduction in income from import tariffs and customs, expand the trade deficit, increase gasoline consumption and negatively affect a excise tax in place to promote energy saving.¹²

When it came cutting to tariffs on larger cars, Thai negotiators played hardball, suggesting that Japanese companies with assembly plants in Thailand exporting cars to the EU might not be able to apply the GSP. They also insisted that imported larger cars be made from at least 20 % Thai-made auto parts if tariff cuts would be applied. All the while they repeatedly brought up the issue of opening up the Japanese agricultural market in negotiations. Thereafter, negotiations came to a deadlock. It was at a minister level meeting in July when Thailand agreed to remove tariffs on engine parts of automobiles in 2013 and immediately reduce tariffs on other auto parts to 20 % if the tariffs were higher than 20%. It also agreed to remove tariffs on other auto parts in 2011. As to the tariffs on passenger cars with engines exceeding 3000cc, it agreed to gradually lower them from 80 % to 60 % by 2009. However, Japan and Thailand could not agree on over the proposal to have a tariff cut renegotiation in 2009. In the end, they agreed to make a political declaration on the renegotiation of the tariff for cars with engines above 3000cc, which would be cut by the middle of 2010's. As for tariffs on cars under 3000cc, they also agreed to maintain a tariff rate of 80% and to have renegotiations.¹³

¹² Letter dated 02 May, 2005 to Pisan Foreign Ministry Deputy Permanent Secretary from the Thai Auto-Parts Manufacturers Association.

¹³ The Japan-Thai EPA was supposed to be signed on by April 3, 2006. However, due to the dissolution of the Lower House and a coup d'etat, an agreement was signed on April 3, 2007. A

In the process of negotiating the Japan-Thailand EPA, Japan tried to reach an agreement through minister level meetings. However, meetings with the Thai Minister did not bring about outcomes of real substance. In Thailand, a minister simply follows policy decisions made by bureaucrats. Therefore, negotiations were actually based on the positions that bureaucrats took. A minister could not take a leadership position in negotiations for the following reasons. During the Thaksin Government, the Prime Minister often reshuffle his cabinets and ministers were changed. As a result, politicians did not have enough time or the opportunity to state their opinions on the issue. Moreover, there was a lot of resistance to the Japanese attitude in negotiations because Japan asked Thailand to open its industrial sector without making any concessions to Thailand, and because it tried to use political pressure. Facing strong resistance, politicians could not give in to Japanese requests. Though Thaksin's cabinet was one in which politicians were thought to have much initiative and carry out policy in a top-down manner, when it came to FTA negotiations bureaucrats maintained control of policy making.

C) Malaysia

In EPA negotiations with Malaysia, Malaysia's National Car Policy¹⁴ was an obstacle to negotiations over removing a tariff on imported Japanese automobiles. By May 2005, however, Japan and Malaysia had agreed in principle and signed a bilateral EPA in December of the same year.

political declaration made at the time of the FTA's signing included a statement on the renegotiation on tariff cuts for automobiles.

¹⁴ In a move aimed at developing and protecting Malay companies, The Heavy Industries Corporation of Malaysia (HICOM) establish the Proton in 1983. The Proton factory started producing Malaysian brand automobiles. The Malaysian government provided the Proton with preferential treatment when it came to taxes on production and sales. As a result, at one point in time the Proton dominated 70 % of the market.

Let's examine the agreed content pertaining to the automobile industry. Until 2005, Malaysia had a 50 % tariff on completely built up (CBU) cars in effect. In the agreement, Malaysia agreed to eliminate tariffs according to different time schedules, depending on the scale of car engine displacement. In 2008 tariffs on passenger cars exceeding 3000 cc would be cut to between 0% and 5% and would be eliminated in 2010. Tariffs on passenger cars exceeding 2000cc up to 3000cc would be gradually cut and finally eliminated in 2010. Tariffs on passenger cars under 2000cc, which would be competing against the national car, would also be gradually cut and eventually eliminated in 2015. The Malaysian government would also immediately eliminate tariffs on completely knocked down (CKD) auto parts and would cut tariffs on auto parts other than CKD to between 0% and 5% in 2008, completely removing them in 2010.

The Malaysian government had been reviewing its national policy on the automobile industry since the national car policy had been criticized as protectionism. Under the Common Effective Preferential Tariff (CEPT) scheme of AFTA, Malaysia initially included automobiles on the temporary exclusion list and delayed tariff reductions on automobiles. However, it decided to include automobiles in the CEPT scheme starting in 2005. In a revision of the tax system in January 2005, it reduced tariffs on CBU cars from other ASEAN countries to 20 % and from non-ASEAN countries to 50 %. However, since it increased the excise tax on auto products at the same time, there was no change for actual tax rate on cars from non-ASEAN countries. Nevertheless, the Malaysian government published an outline for its new National Automotive Policy (NAP) in October 2005, which was finalized in March 2006. Very evident in the new policy was the Malaysian government's new policy of rationalizing

the auto sector and promoting its competitiveness.¹⁵ In the finalized policies of March 2006, it reduced the tariff on CBU cars from other ASEAN countries to 5 % and from non-ASEAN countries to 30 %. It also reduced its excise tax.¹⁶ Under the CEPT scheme, only Malaysia was allowed to delay the tariff cut on CBU cars to 5 percent or less in 2008. However, Malaysia's decision in 2006 to cut tariffs on cars accelerated the tariff cut plan. In addition, preferential treatment policies, such as the excise tax distributed to national car companies, were also removed.

The NAP also removed the approved permit (AP) system, which had been criticized as an import control measure. Under the AP system, it was unclear how the approved companies were selected. Another problem that emerged was that approved companies were lying about import prices in order to lessen tax duties. Consequently, the NAP required an assigned governmental agency to report import prices in order to make import prices transparent. The NAP also provided grants from the Industrial Adjustment Fund (IAF) to projects that promoted the industrial linkage and R&D. Since one requirement to get such a grant was meeting a percentage of local content of auto parts, the National Car Company currently has an advantage over other companies. However, foreign automobile companies may obtain grants as well if they enhance the percentage of locally produced parts they use.

Strong Japanese demands for opening up the automobile market during Japan-Malaysia EPA negotiations influenced Malaysia's decision to move from its National Car Policy to its National Automotive Policy.¹⁷ Japan and Malaysia had started

¹⁵ Office of the Prime Minister of Malaysia, "National Automobile Policy," 22 March, 2006.

¹⁶ At the same time, however, the excise tax on multi-purpose vehicles under 2000cc increased.

¹⁷ The change in administrations from former Prime Minister Mahathir, who promoted the National Car Policy, to Prime Minister Abdullah was also a contributing factor to the changing in national policy on the auto sector.

negotiations in the beginning of 2004. However, their different positions on tariffs on automobiles brought negotiations to a deadlock. To change the situation, they held a minister level meeting in April 2005. During this meeting, the Malaysian Minister of International Trade and Industry realized that instructions from the minister to bureaucrats would be necessary for negotiations to proceed. Following the meeting, the Minister instructed bureaucrats and negotiations proceeded rapidly thereafter. Malaysia is very unique in the sense that its ministers provide strong leadership and can make policy decisions during the negotiation process.

In the Japan-Malaysia EPA, Japan promised to provide economic cooperation in order to assist Malaysia in strengthening its auto parts sector.¹⁸ In fact, in the negotiation process, Malaysia requested some economic cooperation for the sector and Japan agreed. The fact that Japan promised to provide economic cooperation on the auto parts sector in exchange for Malaysia's automobile tariff cuts resulted in the agreement.

4. Differences between Japan and China's Negotiation Processes

Since China signed the Framework Agreement on Comprehensive Economic Cooperation with ASEAN in November 2002, Japan has eagerly sought to negotiate bilateral and regional EPA with ASEAN.¹⁹ Nevertheless, Japan and China have very different negotiation styles.

While multilateral trade talks in the Doha Round of the WTO have been stalled,

¹⁸ The extension of the automobile expert dispatch and the establishment of a training center for skill development are planned.

¹⁹ Japan signed the Framework for Comprehensive Economic Partnership with ASEAN in October 2003.

regional trade agreements (RTAs) have proliferated. In GATT Article 24, the WTO allows WTO members to conclude regional trade agreements as an exception to Article 1 (which requires all like products to be treated equally regardless of country of origin) if certain requirements are met. These are 1) the significant liberalization of all aspects of trade 2) the liberalization of trade within a certain period. However, if the WTO member engaged in negotiations is a developing country, it may use the enabling clause instead of Article 24 as a basis for negotiations. Although the Framework Agreement of the ASEAN-China FTA mentions the liberalization of virtually all types of trade and the complete liberalization of trade within 10 years, the basis for the ASEAN-China FTA is the enabling clause. Japan, however, as a developed country, must use Article 24 as the basis for its agreements.

In the FTA negotiations between China and ASEAN, they decided to agree on modalities first, in other words deciding on such issues as what percent of goods traded between the two sides should be tariff-free. The percentage of tariff-free items is applied to each country in the same manner. In the case of the negotiations between China and ASEAN, they agreed to gradually reduce tariffs on products listed in the normal track starting in July 2005 and removing the tariffs by 2010. They also agreed to the creation of a separate track for sensitive products. They set a limit of 400 products for the sensitive track and the amount of sensitive products has to consist of less than 10 % of total import costs. They agreed to reduce tariffs on products in the sensitive track to 20 % by 2012 and to 0~5 % by 2018. They created yet another track for highly sensitive products. The amount of products allowed on the highly sensitive track had to be either less than 40 % of the products in the sensitive track or less than 100 total. Finally, they agreed to tariff reductions of 50% on highly sensitive products by 2015. This way, each

country had a certain amount of flexibility in negotiations since it could decide independently which products it would consider sensitive.

In the case of bilateral negotiations between Japan and ASEAN, they exchanged a request-offer list, in which each country listed those products for which it wished to see tariff reductions. Thus, all tariffs on such targeted products had to be discussed. The countries involved were faced with serious decisions. Furthermore, in the Japanese EPA negotiations, Japan and the ASEAN members adopted the concept of the single undertaking, in which an agreement can be only reached if all parties agree on all sectors. That is to say that an agreement will not solely consist of tariff cuts and reductions on certain products but must also address services, investment, economic cooperation, and intellectual property rights. The single undertaking considers comprehensiveness the primary goal. In this manner, since countries have to negotiate simultaneously on both sectors that are highly competitive and those that are much weaker, they can make deals and concessions that involve unrelated products and multiple sectors. Japan asked ASEAN members to remove tariffs on industrial products, but found it difficult to open up its agricultural market further. To overcome this, Japan sought to use economic cooperation as a negotiation tool. Japan achieved its EPA with Thailand by providing agricultural cooperation (relating to food sanitation standards and the reinforcement of cooperation among agricultural cooperatives) as well as personnel training in the automotive sector. It also reached its agreement with Malaysia by agreeing to assist it in its quest to strengthen the competitiveness of its auto parts industry.

In the FTA negotiations between developing countries, it is popular to begin negotiations on a sector which is easy for all parties to agree upon. In the negotiations

between China and ASEAN, they reached consensus first on the Early Harvest Program, in which tariffs on non-processed agricultural products are reduced.²⁰ Then, they reached an agreement the overall liberalization of products, with a plan to reach an agreement on services and investment in the future. This negotiation style, obviously, was not along the lines of the single undertaking. As for trade of products, while certain products may be designated exclusive, the agreement has been criticized for a lack of stringency in terms of rules of origin, reciprocity²¹ and application.²² At the same time this agreement sets a policy that prevents members from committing reciprocal treatment by revising sensitive products and promoting early tariff reduction. All in all, considering the fact that they have not negotiated on services, investment and cooperation, it is too early to really evaluate this agreement.

Unlike China, Japan has not only signed bilateral agreements with the original ASEAN members but also a regional agreement with ASEAN itself. Japan worked on achieving bilateral agreements with ASEAN members, thinking that it would be difficult to bring the new ASEAN members into regional FTA negotiations. That is why Japan gave bilateral agreements priority. While bilateral FTAs are already being put into effect, the merit of a regional FTA is that it would establish a common set of rules for the region. If common rules on investment, rules of origin, and intellectual property rights were established, there would be economic merit to the value-added trade within ASEAN.²³

²⁰ In the case of China and the original ASEAN members, they started to reduce tariffs on non-processed agricultural products starting in January 2004 and remove them entirely two years later.

²¹ The ASEAN-China FTA allows for reciprocal treatment. Therefore, even if a country does not include a given product on its list of sensitive products, the country is not obligated to reduce its tariffs on said product if another country designates this product as sensitive.

²² This is the questioning letter on ASEAN- China FTA from EU, US and Japan to WTO.

²³ Japan and ASEAN agreed to EPA in principle in August 2007. As to trade with ASEAN as a

5. Conclusion

In FTA negotiations, a country can learn from its past experiences with negotiations and create a new strategy to use in future negotiations. Among the countries with which Japan has reached EPA, Mexico had already signed both NAFTA and an FTA with the EU. As a result, it had already established its own negotiation style, in which the government delegation and business organizations maintained close contact with each other. In its negotiations with Japan, Mexico was consistently of the perspective that agricultural exports could be of great benefit to Mexico. This is why it did not agree to proposals in which Japan would insufficiently open its agricultural markets to Mexican products.

The Japanese Ministry of Agriculture, Forestry and Fisheries learned from its negotiations with Mexico that reluctance toward opening agricultural markets could prolong EPA negotiations. Hence the Ministry created its “Green Asia- EPA Promotion Strategy” and came up with a strategy to balance cooperation and liberalization in EPA negotiations with Asian countries. In negotiations with Thailand, this strategy worked well and Japan succeeded in quickly obtaining a basic agreement on the agricultural sector.

Soon after, however, the Thai side took a strong stance in negotiations relating to the industrial sector and Japan could not obtain the deal it had hoped to get for its auto sector. The final agreement was very different from the original Japanese request.

whole, Japan decided to set up the modalities and apply a percentage of tariff reductions to all members evenly. This is different from bilateral negotiations.

In addition, the agreement had deleterious effects on negotiations with the Philippines, with which Japan already agreed in principle. In the end Japan gave in to the Filipino government's demands for equal treatment with Thailand when it came to the auto sector.

In its EPA negotiations with Thailand, the Japanese strategy using the single undertaking clashed with Thailand's position, thus causing Thailand to take a tough line on negotiations. Compared to other Southeast Asian countries, Thailand has been very active in its pursuit of FTA agreements. Thailand has concluded agreements with China, India, Australia, New Zealand that have already come into effect. For the Philippines and Malaysia, Japan was the first negotiating partner, whereas Thailand already had an agreement with Australia and was able to use its experience of negotiations framed around the single undertaking to advantage in negotiations with Japan. During negotiations with Japan, each sector was discussed at a different time. On the one hand, Japan used a strategy whereby it promised to offer economic cooperation in both the agricultural sector and the industrial sector. Thailand, on the other hand, was hoping to get Japan to open its sensitive sector in exchange for opening its own. Thailand insisted that Japan open its agricultural market as Thailand opened its steel and automotive sectors. Consequently, Thailand resisted the one-sided Japanese demand which called for Thailand to open its industrial sector without a similar concession being made when it came to Japan's agricultural sector.

It has been said that there have been many problems in the China-ASEAN FTA negotiations. These include designating sensitive products after deciding modalities, as well as flexibility allowed for reciprocal treatment. In spite of these drawbacks, ASEAN has a good impression of this negotiation style since the agreement it reached with

China let members reduce tariffs on non-processing agricultural products before the overall agreement was reached. The Chinese strategy of starting with negotiations that would result with visible outcomes that could please all parties worked well.

Looking back on Japan's EPA negotiations, it depends on the negotiating country whether ministers or bureaucrats have the power to take the initiative in the negotiation process. While ministers took the lead in Malaysia, Thai ministers accepted and carried out a strategy prepared by bureaucrats. In the Philippines, with pressure from business group, bureaucrats made progress in negotiations, assuming the EPA would revive national industry. The close link between the delegation from the Mexican government and the business organization accompanying it implied that Mexican bureaucrats did not have the ability to decide policy independently. In Mexico, because many economists with graduate degrees from the US work as bureaucrats, economic liberalization was advocated and carried out. At the same time, however, this economic liberalization has not brought the expected outcome to Mexico, despite its early adoption pursuit of FTAs. As a result, Mexico has altered its economic policy to focus more on the strengthening competitiveness of its own industry. In fact, helping its EPA partners strengthen their industrial competitiveness is a main pillar of the policy of economic cooperation that Japan emphasizes in its EPA negotiation process. Thus the future development of economic cooperation, such as the provision of automotive sector personnel training programs in Malaysia and Thailand, may serve as a litmus test for evaluating the effectiveness of Japanese EPAs.

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